

APPENDIX

Revenue Act of 1932, c. 209, 47 Stat. 169:

SEC. 601. EXCISE TAXES ON CERTAIN ARTICLES.

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(c) There is hereby imposed upon the following articles sold in the United States by the manufacturer or producer, or imported into the United States, a tax at the rates hereinafter set forth, to be paid by the manufacturer, producer, or importer:

(1) Lubricating oils, 4 cents a gallon; but the tax on the articles described in this paragraph shall not apply with respect to the importation of such articles.

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Act of June 16, 1933, c. 96, 48 Stat. 254 (Gasoline Tax Amendment):

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SEC. 4 (b) Effective fifteen days after the date of the enactment of this Act, section 601 (c) (1) of the Revenue Act of 1932 is amended by adding at the end thereof the following:

"Under regulations prescribed by the Commissioner with the approval of the Secretary, no tax shall be imposed under this section upon lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him, but for the purposes of this title such vendee shall be considered the manufacturer or producer of such lubricating oils."

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Revenue Act of 1934, c. 277, 48 Stat. 680:

SEC. 603. TAXES ON LUBRICATING OIL AND GASOLINE.

(a) Section 601 (c) (1) of the Revenue Act of 1932, as amended, is amended by adding after the first sentence thereof the following: "Every person liable for tax under this paragraph shall register and file bond as provided in section 617, as amended."

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Treasury Regulations 44 (Revised September 1934):

ART. 40. *Use of terms.*—The term "lubricating oil" as used in these regulations includes all oils, regardless of their origin, which are sold as lubricating oils and all oils which are sold or used for lubrication.

The term "lubricating oils" does not include products of the type commonly known as grease. Oleaginous substances which are classed as grease are not subject to the tax when (1) of a worked consistency of less than 390 penetration units, or an unworked consistency of less than 360 penetration units, by the method of test of the American Society for Testing Materials D-217-33-T and (2) free from oil, or composed of oil and a soap or soaps, or of a mixture of soaps and other substances.

The term "manufacturer" includes (1) any person who produces lubricating oil by any process of manufacturing, refining, or compounding, or any manipulation involving substantially more than mere mixing of taxable oils, (2) any person who

produces lubricating oil by mixing taxable oils with other substances to produce lubricating oils, and (3) any person who cleans, renovates, or refines used or waste lubricating oil by any method or process which produces an oil substantially equivalent to new lubricating oil.

The term "manufacturer" does not include a person who merely blends or mixes two or more taxable lubricating oils.

ART. 41. *Scope of tax.*—The tax attaches to the sale by the manufacturer of lubricating oil. However, no tax attaches to the sale of lubricating oil by the importer thereof. Lubricating oils imported into the United States are subject to a tax of 4 cents a gallon under section 601 (c) (4), upon the importation thereof. This tax is administered by the Bureau of Customs of the Treasury Department.

All manufacturers of lubricating oils must register and give bond in accordance with the provisions of articles 8 and 9.

S. T. 505, XI-2 Cumulative Bulletin 448 (1932):

REGULATIONS 44, ARTICLE 11: SCOPE OF TAX.

Cutting oils and water soluble oils used for lubricating purposes held taxable.

Advice is requested whether cutting oils and water soluble oils are lubricating oils and subject to the tax under section 601 (c) 1 of the Revenue Act of 1932.

Under Treasury Decision 4339, issued July 16, 1942 [see on page 446], any oil having both lubricating and nonlubricating uses is taxable when sold or used for lubrication.

Cutting oils and water soluble oils, used in cutting and machining operations on metals, are used for lubricating purposes and are therefore held to be taxable under section 601 (c) 1 of the Revenue Act of 1932, when sold by the manufacturer or producer.